

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TIM TOTH,

Plaintiff,

v.

AARGON AGENCY, INC.,

Defendant.

Case No. 2:13-cv-00193-MMD-VCF

ORDER

(Plf.'s Motion to Amend – dkt. no. 12)


Before the Court is Plaintiff Tim Toth's Motion to Amend Complaint. (See dkt. no. 12.) Defendant Aargon Agency, Inc. filed a notice of non-opposition consenting to Plaintiff's Motion. (See dkt. no. 13.)

Under Rule 15 of the Federal Rules of Civil Procedure, a party may amend its complaint only by leave of the court once responsive pleadings have been filed and in the absence of the adverse party's written consent. *Thornton v. McClatchy Newspapers, Inc.*, 261 F.3d 789, 799 (9th Cir. 2001). The court has discretion to grant leave and should freely do so "when justice so requires." *Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 1990) (quoting Fed. R. Civ. P. 15(a)). Nonetheless, courts may deny leave to amend if it will cause: (1) undue delay; (2) undue prejudice to the opposing party; (3) the request is made in bad faith; (4) the party has repeatedly failed to cure deficiencies; or (5) the amendment would be futile. *Leadsinger, Inc. v. BMG Music Publ'g*, 512 F.3d 522, 532 (9th Cir. 2008). After reviewing these factors, the Court concludes that good cause appears to grant Toth's Motion, particularly in light of

1 Defendant's non-opposition. However, Toth's claims against the 10 unnamed Doe
2 Defendants cannot proceed, as the use of Doe pleading is disfavored in federal courts.
3 See *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir.1980). Toth will be provided the
4 opportunity through discovery to ascertain the identities of any Doe defendant, and to
5 seek leave to further amend his pleading.

6 Accordingly, IT IS THEREFORE ORDERED that Plaintiff Tim Toth's Motion to
7 Amend Complaint (dkt. no. 12) is GRANTED. Toth is instructed to file his Proposed
8 Amended Complaint (dkt. no. 12, ex. 1) with the revision noted above as a separate
9 docket entry.

10 DATED THIS 23rd day of April 2013.

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14 MIRANDA M. DU
15 UNITED STATES DISTRICT JUDGE
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